AMERICAN ACADEMY
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OF MATRIMONIAL LAWYERS

Connecticut Chapter

Protecting the Family. Improving the Practice.

TESTIMONY OF SARAH STARK OLDHAM
PRESIDENT, CONNECTICUT CHAPTER OF THE AMERICAN ACADEMY OF MATRIMONIAL LAWYERS
IN SUPPORT OF RB 6688
IN OPPOSITION TO RB 1155

I am here today to testify in support of Raised Bill 6688 and in opposition to Raised Bill 1155. I am President of the Connecticut Chapter of the American Academy of Matrimonial Lawyers. The Academy voted by a significant majority to support Raised Bill 6688 and oppose Raised Bill 1155. I also address you as an individual matrimonial attorney practicing in Connecticut for the last 25 years. I was Chair of the Connecticut Bar Association Family Law Section (2003-2004) and am a Fellow of the American Bar Foundation. I am active in the American Academy of Matrimonial Lawyers and the International Academy of Matrimonial Lawyers, which means I travel extensively talking to matrimonial lawyers here and abroad. In general, Connecticut is to be commended for its excellent statutory scheme when it comes to matrimonial matters. Despite the statewide budgetary problems and the fact that all of our courts are inundated with self-represented parties, there is no hard and fast evidence that our **statutory scheme** is broken or in need of a major overhaul.

For those of you not familiar with the intricacies of Connecticut's alimony statute, Section 46b-82 as it exists today, sets forth statutory criteria which the judges must consider when making an alimony order. These include:

1) The length of the marriage
2) Causes for the annulment, legal separation or dissolution
3) The age of the parties
4) The health of the parties
5) The station of the parties
6) Occupations
7) Amounts and sources of income
8) Vocational skills
9) Employability of the parties
10) Estate of the parties
11) Needs of the parties
12) The assignment of property, if any, under 46b-81
13) The desirability of a custodial parent securing employment

These are important common sense considerations and influence the outcome in each case. I submit that all of us would like the court to consider these factors if we were getting divorced. Our case law clearly establishes that the court must consider **all** factors. See e.g. *Valante v. Valante*, 180 Conn. 528 (1980); *Carpenter v. Carpenter*, 188 Conn. 736 (1982).

I and the Academy are opposed to Raised Bill 1155. There are many reasons for this opposition, First, and most significantly, the Academy does not support alimony guidelines. Among other things the introduction of the alimony guidelines proposed in Raised Bill 1155 elevates the one statutory criteria of **amount of income of the parties** over all other criteria. This would constitute an enormous change in our overall statutory scheme. What is the
significance of all the other factors if amount of income is the basis for the guideline calculation?

Second, it is very important to note that there is no economic data or sociological research to suggest there should be any change. Others who say the "problems" of today "compel" us to turn to guidelines have cited no research or independent data to support this proposition. There **is** data out there. I have done some research and it exists. There is nationwide and more local research on the economic effects of divorce on men and on women; there is research on the impact of alimony awards on men and women; there are Department of Labor statistics about income and needs; and many in Law Review articles address this and closely related issues, just to name a few.

In my experience, there is no "trend" nationwide or internationally toward the institution of alimony guidelines. A few states have tried them, with very mixed results. There is no research which would direct this legislature as to whether guidelines, in general, or these percentages, in particular, would help the Connecticut public. In fact, there is no consensus or data to support the percentages in the formula. Why start at 30%? What rational basis is there for this particular number? What if it is a long marriage, is 30% right? Why? On what basis is a working spouse with the lower income to be capped at 40% of the **combined gross income of both parties**? Is this the public policy of Connecticut? If so, why? I certainly hope it is not. This is punitive. Why cap the application of the guidelines at $1,000,000? Our child support guidelines have caps well supported by economic data. There is none here. Speaking of child support, what is the interaction between alimony and child support? All of the percentages in the "formula" are arbitrary, capricious and without any rational basis. Some believe that the percentages may be discriminatory and damaging to women. There are others who feel that these percentages would help women. Still others feel they would help men. Some feel formulaic certainty would help everyone. But **nobody knows** and we should not be speculating.

The proposition that the guidelines in Raised Bill 1155 are not mandatory is specious. Although it says that the court **may** utilize the proposed calculation to

determine the amount of alimony, by its own terms, (subsection (d))[1], the formula either **must** be used or the court must specify why it did **not** use it. This is a thinly disguised mandate which will lead to confusion about how the other factors enumerated in 46b-82 apply and more litigation. Raised Bill 1155 bill is complex, broad and covers a multitude of statutory changes. To the extent that there are some interesting ideas or proposed revisions other than the guidelines contained therein, they should be separated out into individual bills and addressed on their own merits. Raised Bill 1155 is not supported by the Connecticut Chapter of Matrimonial Lawyers, the Family Law Section of the Connecticut Bar Association, Connecticut Women's Education and Legal Fund, the Permanent Commission on the Status of Women, the Domestic Violence Group or Legal Aid.

RAISED BILL 6688

In contrast, Raised Bill 6688 is a straightforward bill, addressing several relatively modest changes and, most significantly, establishing a mechanism to study what is actually going on in Connecticut regarding alimony.

Raised Bill 6688 corrects gender laden language in Section 46b-36, which is entitled "Wife and husband property rights not affected by marriage." The language in Section 46b-36 should be revised as set forth in Raised Bill 6688 now that Connecticut recognizes same sex marriage.

Other revisions in Raised Bill 6688 to Section 46b-82(b) would require the court to articulate with specificity the basis for nonmodifiable permanent alimony awards. Under case law, the court must already give the reasons for a time-limited alimony order under *Ippolito v. Ippolito,* 28 Conn. App. 745 (1992). I believe that the citizens of Connecticut will be aided by an explanation by the judge as to what he or she considered significant in their case, regardless of whether an alimony order is time-limited or permanent. This should help the many self-represented parties and in all likelihood reduce the number of appeals.

Finally, the most important part of Raised Bill 6688 is section 5, the provision for a **Legislature Program Review and Investigations Committee** which will be specifically charged with "conducting a study into the fairness and adequacy of state statutes relating to the award of alimony." The Committee will "collect empirical data relating to the award of alimony by the courts of this state and make recommendations for revisions to state statutes as the Committee deems just and equitable." This Committee must consider, among other things, the comprehensiveness of the existing statutory criteria utilized to determine awards of alimony, **statistical data** reflecting the **comparative** financial circumstances at defined intervals of time subsequent to the entry of judgment and statutory criteria

[1] (d) The court shall state in its memorandum of decision (1) whether it utilized the calculation set forth in subsection (c) of this section, or (2) if such calculation was not used, the factors, set forth in subsection (a) of this section, that resulted in the court's declining the use such calculation.

utilized in other states. Without this information, no individuals or groups can tell you what is the best course for Connecticut's citizens. To adopt Raised Bill 1155's alimony guidelines without such a study would be reckless and holds the potential to wreak havoc with a statutory scheme which works fairly well.

Thank you for your time and attention to this matter.

Respectfully submitted,

Sarah Stark Oldham